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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,864	11/20/2003	Casey L. Kelly	3250.002	3077

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,864

Applicant(s)

KELLY, CASEY L.

Examiner

Robert P. Swiatek

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7, 12, 14, 15 are rejected under 35 U.S.C. 102(a) as being anticipated by Rovelli (US 6,497,292 B2). The Rovelli patent discloses a method of forming a horseshoe *in situ* on a horse's hoof, the method including the steps of cleaning debris from the shoe area 28 of a horse's hoof, applying a malleable mass of resin to the surface 26 of the shoe area and subsequently forming it into a horseshoe shape of desired dimensions, allowing the mass to cure and harden over time (which can be under one minute), and shaping the resultant preform 32 with a tool into the final desired profile. The initial application step of the resin to the surface 26 can be effected with a spatula or trowel 15, while the resin can be supplied as a two-part reactive composition from a dual cartridge dispenser prior to being applied by trowel to the hoof. A preferred resin composition includes diphenylmethane diisocyanate and polyoxypropylene oxide polyether polyols and meta xylene diamine (see column 6, lines 10-14, of Rovelli). As to claims 14, 15, see column 4, lines 14-23, of Rovelli.

Claims 8-11, 13, 16 rejected under 35 U.S.C. 102(a) as being anticipated by Rovelli. The patent to Rovelli discloses a resin horseshoe cured *in situ* in an intended profile on a horse's hoof. The shoe is formed from a reactive mixture of diphenylmethane diisocyanate,

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polyoxypropylene oxide polyether polyols and meta xylene diamine. With regard to claim 16, column 4, lines 28-30, of Rovelli notes the hardened resin shoe exhibits “an optical effect other than its natural appearance.”

Claims 4, 14 are objected to because of the following informalities: In claim 4, line 4, “and” should be changed to –an–, in line 10, “flows” should be changed to –flow–; in claim 14, line 2, –a– should be inserted after “from.” Appropriate correction is required.

The abstract of the disclosure is objected to because in line 1, “Described herein are methods” should be changed to –Methods–. Correction is required. See MPEP § 608.01(b).

The patents to Jenny et al. (US 3,285,346), Stubbe (US 4,237,981), Tennant (US 4,765,411), and Stovall (US5,681,350) have been cited to provide additional examples of horseshoes.

RPS: ©703/308-2700
6 August 2004

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
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